IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 33790 of 2006(V)

PETITIONER:

G.REGHUKUMAR, EXCISE GUARD,
EXCISE CIRCLE OFFICE, KOLLAM.

BY ADV. SRI.K.JAJU BABU
SRI.BRIJESH MOHAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.

2. THE COMMISSIONER OF EXCISE,
TRIVANDRUM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.33790 of 2006

Dated this the 12th day of January, 2007

JUDGMENT

The petitioner is working as Excise Guard in Kollam District. He was found guilty of certain charges and the penalty of reduction in rank by 20 places was imposed. The appeal filed by him before the Government has been rejected vide Ext.P6 order. One of the contentions urged by the petitioner against Ext.P6 is that the Government have failed to apply its mind to the gravity of the charges and the role alleged to have been played by the petitioner and therefore the penalty imposed is unconscionably excessive. It is pointed out that in a case involving similar acts of delinquency committed by the officers of the Excise department, the penalty imposed on a Preventive Officer is barring of two increments only, but the petitioner who is only an Excise Guard and who had worked in the concerned range only for a very short period has been subjected to a severe penalty without considering the extenuating circumstances he has raised in his appeal memorandum.

2. Learned counsel for the petitioner submits that if the petitioner was afforded an opportunity of being personally heard by the appellate authority, it would have enabled him to appraise the concerned authorities to convince them that the penalty imposed on him is excessive and disproportionate to the gravity of the offences alleged to have been committed by him.

3. Invoking the power of review vested in the Government, the petitioner has filed Ext.P9 representation. Learned counsel for the petitioner submits that the Government has got the power to consider the case of the petitioner either under Rule 34 of Kerala Civil Services (Classification and Appeal) Rules 1960 or under rule 39 of the Kerala State and Subordinate service rules, so as to deal with his case in a just and equitable manner.

4. I am not expressing any opinion on the merits of the contentions urged by the petitioner in support of the reliefs prayed for by him, for, any such opinion will prejudice either of the parties. It would suffice that the first respondent is directed to consider Ext.P9 and dispose of the same after affording an opportunity of being heard to the petitioner. Accordingly, the writ petition is disposed of directing the first respondent to issue notice to the petitioner and after hearing

him, pass appropriate orders on Ext.P1. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for compliance. Time for compliance is three months.

K.K.DENESAN, JUDGE

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